

Boston Scientific Corporation, et al., NO. C 02-01474 JW

NO. C 02-01474 JW

Plaintiff(s),

V.

Cordis Corporation.

Defendant(s)

**ORDER SCHEDULING HEARING
REGARDING CROSS MOTIONS FOR
SUMMARY JUDGMENT OF
VALIDITY/INVALIDITY OF THE '415
PATENT**

On February 3, 2005, this Court stayed all proceedings regarding the '385 and '498 Patents.

(Order Granting in Part and Denying in Part Defendant Cordis's Motion to Stay Proceedings, hereinafter "February 3, 2005 Order," Docket Item No. 792, at 5:7.) Furthermore, this Court stayed the trial on the '415 Patent. (February 3, 2005 Order at 5:7-8.) However, this Court permitted four motions for summary judgment, relating exclusively to the '415 Patent, to proceed. (February 3, 2005 Order at 5:12-17.) These motions are: Defendant's Motion for Summary Judgment of Invalidity (Docket Item No. 676), Plaintiffs' Cross-Motion for Summary Judgment of Validity (Docket Item No. 727), Plaintiffs' Motion for Summary Judgment that the Activities of Lawrence Livermore National Laboratories and/or Cordis Do Not Invalidate the Claims of the '415 Patent (Docket Item No. 712), and Plaintiffs' Motion for Summary Judgment of Validity of Claim 27 of the '415 Patent (Docket Item No. 707). (February 3, 2005 Order at 5:12-17.)

This Court divided these four motions for summary judgment into two sets and scheduled them

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1 for hearing on two dates. Specifically, this Court scheduled the hearings regarding Defendant's
2 Motion for Summary Judgment of Invalidity (Docket Item No. 676) and Plaintiffs' Cross-Motion for
3 Summary Judgment of Validity (Docket Item No. 727) for March 28, 2005 at 9:00 a.m., and the
4 hearings regarding Plaintiffs' Motion for Summary Judgment that the Activities of Lawrence Livermore
5 National Laboratories and/or Cordis Do Not Invalidate the Claims of the '415 Patent (Docket Item No.
6 712), and Plaintiffs' Motion for Summary Judgment of Validity of Claim 27 of the '415 Patent (Docket
7 Item No. 707) for April 25, 2005 at 9:00 a.m. (February 3, 2005 Order at 5:17-6:2.)

8 On March 23, 2005, this Court, on its own motion, and to provide the parties a more expansive
9 opportunity for oral argument, continued the March 28, 2005 hearing date to Wednesday, April 6,
10 2005. (Order Continuing Hearing Regarding Cross Motions for Summary Judgment of
11 Validity/Invalidity of the '415 Patent, Docket Item No. 795, at 1:16-18.)

12 On March 28, 2005, Defendant Cordis filed a Motion for Leave to Amend Final Invalidity
13 Contentions (Docket Item No. 796) and a Motion to Compel Scheduling of Expert Deposition (Docket
14 Item No. 798.) This Court referred these motions to Magistrate Judge Seeborg and vacated the April
15 6, 2005 hearing date because "the issues raised in Cordis's Motion to Compel Scheduling of Expert
16 Deposition potentially affect the Cross-Motions for Summary Judgment Regarding the
17 Validity/Invalidity of the '415 Patent . . ." (Order Vacating April 6, 2005 Hearing Date, hereinafter
18 "April 6, 2005 Order," Docket Item No. 803, at 1:21-23.) This Court stated that it "will schedule a
19 new hearing date shortly after Magistrate Judge Seeborg resolves Cordis's motions." (April 6, 2005
20 Order at 1:24-25.)

21 On May 4, 2005, Magistrate Judge Seeborg granted Cordis's Motion to Amend Final Invalidity
22 Contentions and ordered Cordis to make its expert, Dr. Collins, available for deposition. (Order
23 Granting Defendant's Motion to Amend its Final Invalidity Contentions, Docket Item No. 814, at 6:10-
24 14.)

25 On May 18, 2005, Plaintiffs objected to Magistrate Judge Seeborg's Order. (Plaintiffs'
26 Objection to Magistrate Judge Seeborg's May 4, 2005 Order Granting Defendant's Motion to Amend

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1 its Final Invalidity Contentions, Docket Item No. 815.) However, on May 27, 2005, Plaintiffs
2 withdrew their objection. (Notice of Withdrawal of Plaintiffs' Objection to Magistrate Judge
3 Seeborg's May 4, 2005 Order Granting Defendant's Motion to Amend its Final Invalidity Contentions,
4 Docket Item No. 819.)

5 Accordingly, this Court schedules hearings regarding Defendant's Motion for Summary
6 Judgment of Invalidity (Docket Item No. 676) and Plaintiffs' Cross-Motion for Summary Judgment of
7 Validity (Docket Item No. 727) for Monday, September 26, 2005 at 9:00 a.m. This Court will
8 schedule hearings regarding Plaintiffs' Motion for Summary Judgment that the Activities of Lawrence
9 Livermore National Laboratories and/or Cordis Do Not Invalidate the Claims of the '415 Patent
10 (Docket Item No. 712) and Plaintiffs' Motion for Summary Judgment of Validity of Claim 27 of the
11 '415 Patent (Docket Item No. 707) after this Court has conducted the hearings regarding Defendant's
12 Motion for Summary Judgment of Invalidity (Docket Item No. 676) and Plaintiffs' Cross-Motion for
13 Summary Judgment of Validity (Docket Item No. 727).

14 Dated: June 10, 2005

15 02cv1474sch-msj-hrg

/s/James Ware
JAMES WARE
United States District Judge

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United States District Court

For the Northern District of California

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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18 **Dated: June 10, 2005**

19 **Richard W. Wieking, Clerk**

20 **By:/s/JWchambers**

21 **Ronald L. Davis**
22 **Courtroom Deputy**

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